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November 21, 2016

**VIA EMAIL**

Bulmaro Canseco  
CAP Project Manager  
County of San Diego  
Planning & Development Services  
5510 Overland Avenue, Suite 110  
San Diego, CA 92123

Re: Golden Door's Comments Regarding the Climate Action Plan Notice of Preparation

Dear Mr. Canseco:

We represent the Golden Door Properties LLC (the "Golden Door"), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County ("North County"). It was the highest rated establishment in *Travel and Leisure's* recent list of the world's best destination spas. Its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest. Agricultural cultivation on the property includes avocado groves and fresh vegetable gardens as well as citrus and olive trees.

The Golden Door is committed to environmental stewardship and sustainability. It uses sustainable and bio-intensive agriculture practices and has eliminated guests' use of plastic water bottles. The owners are not seeking to expand the Golden Door in any way, but are seeking to further enhance the Golden Door according to guiding principles, including the extensive sustainable agriculture on the surrounding acres. As such, the Golden Door is concerned about Newland's proposed "Sierra" Project (the "Newland Project"), a revised Merriam Mountains project on property located near Deer Springs Road. The Project would implement urban-style development in a rural area of the unincorporated County, far from job and urban centers and from transit infrastructure. This unplanned development would contradict modern planning principles and result in long single-occupant vehicle trips causing GHG emissions.

We appreciate the opportunity to participate in the Climate Action Plan ("CAP") process, and submit the following comments on the CAP's Notice of Preparation ("NOP").

## **I. THE CAP SHOULD BE LIMITED TO LAND USES CONTAINED IN THE COUNTY'S 2011 GENERAL PLAN**

The NOP states that an EIR will provide program-level analysis for the CAP as well as a supplement to the 2011 General Plan Update Program EIR to evaluate General Plan amendments related to the CAP. The CAP's environmental impact report should address how the CAP will analyze and potentially incorporate amendments to the County's General Plan. For example, the Newland Project includes a pending amendment to the General Plan. The Newland Project is located in rural North County and proposes 2,135 residential units, 81,000 square feet of commercial development, a charter school, and various parks and equestrian facilities in an area currently zoned for only 100 homes. In addition, the Newland Project is located in a highly automobile dependent location, lacking present or future transit opportunities—in contrast to modern planning principles that emphasize locating added density near existing infrastructure and multi-modal transit hubs in order to reduce transportation-related GHG emissions. In fact, the Newland Project proposes widening Deer Springs Road to handle additional vehicle traffic the Project will bring to the area, thus inducing additional GHG emissions. As previously stated in numerous communications with the County, the Golden Door opposes Newland's proposal for the unplanned urbanization of rural Twin Oaks Valley.

The CAP's threshold should be limited to land uses in the 2011 General Plan as adopted, not subsequent amendments to the General Plan. Any amendment to the 2011 General Plan should also include an amendment to the CAP to prevent internal inconsistency between the documents. The County should not provide a pathway for additional GHG emissions within the CAP to make room for pending or proposed General Plan amendments such as the Newland Project. Instead, each General Plan amendment should ensure that it will allow the County to achieve its Assembly Bill ("AB") 32 and Senate Bill ("SB") 32 requirements. Otherwise, it is possible for one project to consume all GHGs considered within the CAP if it is of a particularly large size. A CAP that allows for unlimited thresholds to accommodate all possible General Plan amendments would render the County unable to meet its required targets. The CAP, therefore, should reflect the reductions needed to meet the AB 32 and SB 32 required targets to mitigate emissions from the 2011 General Plan at build-out alone.

A CAP that provides for more growth than specified under the County's Land Use Element and other portions of the County's General Plan would be inconsistent with the County's General Plan. Such a CAP would also not be consistent with the adopted CEQA mitigation measures that required the County to adopt the CAP.

## **II. THE CAP MUST ENSURE THAT IT IS VERTICALLY INTEGRATED WITH ALL STATE-WIDE PLANNING DOCUMENTS**

The CAP must be vertically integrated with statewide policies beyond the local level. AB 32 and other state laws require California to reduce its own GHG emissions. In particular, AB 32 requires California to reduce its GHG emissions to 1990 levels by 2020, a reduction of approximately 15 percent below emissions expected under a "business as usual" scenario. In addition, SB 375 requires the San Diego Association of Government ("SANDAG") and other planning organizations to reduce transportation and built environment sector emissions within

their regions through Regional Transportation Plans/Sustainable Communities Strategies (“RTP/SCS”). The RTP/SCS helps to ensure that local governments attain their fair share of GHG reductions to achieve state targets. Local plans should be at least as protective as the plans above them in order to ensure the upstream policy documents are not undermined. The County should ensure its CAP is consistent with the RTP/SCS and other planning documents based on statewide policies by adhering to the land uses prescribed by the 2011 General Plan, upon which the SANDAG RTP/SCS is based.

### **III. THE CAP MUST NOT ALLOW FOR UNLIMITED EMISSIONS BASED OFF OF POPULATION GROWTH**

Currently, the County is processing development projects using the recently released 2016 Climate Change Analysis Guidance (“2016 GHG County Efficiency Metric Document”) setting forth new thresholds of significance for GHGs. For analysis of GHG emissions in 2020, the County Efficiency Metric provides a threshold of 4.9 million tons of GHG emission *per person per year*. 2016 GHG County Efficiency Metric Document at 6. This measurement only considers GHG emissions on a “per person per year” basis; there is no overall maximum or maximum for emissions from new development. *Id.* at 4-6. For a project buildout year after 2020, the County Efficiency Metric sets an annual average reduction rate of 5.2 percent between 2020 and 2050, which is borrowed from the Air Resources Board. *Id.* at 5. Similar to the 2020 measurement, this buildout year analysis under the County Efficiency Metric fails to provide any overall maximum and is not related to any data for existing or proposed development specific to San Diego County. *Id.* at 4-6. In fact, under the County Efficiency Metric—for 2020 or a subsequent buildout year—there is no limit to the total overall amount of GHG emissions so long as its “per person” limits are satisfied.

Contrary to the General Plan and to the Court of Appeal’s guidance, the County Efficiency Metric requires no overall reduction, and could result in an overall GHG emissions increase so long as “per person” limits are satisfied. For example, the County could theoretically decide to open up large areas of open space, doubling the County’s overall population, and still satisfy the “Efficiency Metric” on a per person basis.

The CAP must not repeat the 2016 GHG County Efficiency Metric Document’s mistake. The CAP should not allow for unlimited emissions resulting from population growth. Instead, the CAP must ensure the County achieves its fair share of GHG emissions reductions under AB 32 and SB 32.

### **IV. PRIOR TO APPROVAL OF THE CAP, THE COUNTY SHOULD ONLY CONSIDER PROJECTS THAT CAN ACHIEVE NET ZERO GHG EMISSIONS**

The Golden Door submitted a letter to the County almost two years ago requesting that the County delay consideration of the Newland Project until additional planning had been completed to address GHG impacts in the County. Golden Door Letter to M. Slovick, County Planning & Development Services, Jan. 20, 2015. At the time, the Court of Appeal had recently upheld the trial court decision striking down the County’s original CAP. *See Sierra Club v. Cty. of San Diego*, 231 Cal.App.4th 1152 (2014). While the County is in the process of developing a

revised CAP, we understand that the earliest the Board of Supervisors would consider a revised CAP is late 2017. The County, therefore, should refrain from processing projects that could inhibit the CAP's effectiveness and the County's ability to meet its fair share of GHG emissions reductions under AB 32 and SB 32—such as the Newland Project—until the County has approved the CAP and its related thresholds of significance, thus establishing its comprehensive approach to GHG emissions reduction.

If the County is to continue processing a project such as the Newland Project prior to approval of a valid CAP, the County should consider requiring the project to achieve net zero GHG emissions. Recently, the Newhall Ranch project, a large real estate development project in northern Los Angeles County, announced that it would result in no net emissions of GHGs through the implementation of “a comprehensive array of green innovations onsite and within L.A. County.” Newhall Ranch Press Release at 1 (Nov. 3, 2016). A copy of Newhall Ranch's net zero press release is attached hereto as **Attachment A**. A development project in San Diego County could be similarly conditioned to result in no net new GHG emissions, which could potentially limit conflicts with the County's efforts to achieve its GHG emissions reduction goals through the comprehensive programs to be set forth in the CAP.

Thank you for your time and attention to our comments. Please feel free to contact me at (858) 523-5400 or [christopher.garrett@lw.com](mailto:christopher.garrett@lw.com) if you would like to discuss these matters further.

Best regards,

*Christopher W. Garrett*

Christopher W. Garrett  
of LATHAM & WATKINS LLP

## **ATTACHMENT A**

**For Immediate Release**

November 3, 2016

**Contact: Steve Churm | Chief Communications Officer, FivePoint**

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## **FivePoint Unveils Groundbreaking Proposal for Newhall Ranch That Achieves Zero Net Greenhouse Gas Emissions**

*Pioneering “Net Zero Newhall” initiative incorporates sweeping sustainability measures to fight climate change and protect natural resources, while delivering a major economic boost to the Santa Clarita Valley and Southern California*

SANTA CLARITA, Calif. (November 3, 2016) – In a major step to advance the State of California’s ambitious fight against climate change, FivePoint today announced an unprecedented initiative to develop the Newhall Ranch planned community that will result in no net emissions of greenhouse gases. By implementing a comprehensive array of green innovations onsite and within L.A. County, as well as funding direct emissions reduction activities in California and around the world, “**Net Zero Newhall**” will achieve net zero emissions of greenhouse gases from both construction and operations – a first for a community of its scale in the United States.

“FivePoint is proud to introduce this vision for Newhall Ranch, designed to create a new paradigm for responsible community-building and a model for living and working sustainably in California,” said Emile Haddad, Chairman and CEO of FivePoint. “By harnessing innovation and collaborating with leading environmental organizations, we will create a new standard of environmental sustainability and a lasting investment in our future.”

By reducing to zero all net greenhouse gas emissions from both construction and operations, the Net Zero Newhall initiative will support the State of California’s leadership against global climate change, furthering the goals of newly enacted climate change legislation by the state. Additional sustainability features include the permanent, funded protection of 10,000 acres of open space and extensive measures to conserve water.

Building on the success and quality of Valencia, the revised proposal reflects guidance provided by the California Supreme Court in November 2015 concerning greenhouse gas emissions and avoiding an endangered fish species when constructing project bridges.

“Rather than merely meet the narrow terms of the court’s guidance, FivePoint viewed the ruling as an opportunity to accomplish something truly momentous,” said FivePoint CEO Haddad. “We took a hard look at our proposal and saw an opportunity to rethink what’s possible and use forward-looking community planning to create a true legacy project for California, and even the nation.”

California state officials released a Draft Additional Environmental Analysis today of the Newhall Ranch plan to address the two issues raised by the California Supreme Court. The analysis recognized that Newhall Ranch will result in no net increase in greenhouse gas (GHG) emissions with the adoption of greenhouse gas mitigation measures. The State’s leading agency on climate issues – the California Air Resources Board – reviewed the technical analysis and concluded that Newhall Ranch “would not result in any net additional GHG emissions after the mitigation measures are fully implemented.”

The State also concluded: “Because the project would result in no net increase of GHG emissions after implementation of mitigation measures, there would be no contribution of GHG emissions to cumulative GHG emissions influencing global climate change.” The State’s analysis also concluded that the Newhall Ranch program would avoid impacts to the endangered unarmored threespine stickleback fish.

To achieve the commitment to zero net greenhouse gas emissions, FivePoint will invest hundreds of millions of dollars in a variety of sustainability measures onsite, within L.A. County, elsewhere in California and around the world.

Onsite greenhouse gas mitigation measures will include:

- Designing homes, commercial buildings and public facilities to meet Zero Net Energy standards within Newhall Ranch – creating as much energy as is used over the course of a year, thanks to enhanced energy-efficient design and renewable energy generation, such as solar panels
- Electric vehicle charging stations in every home (up to 21,500) as well as 2,000 onsite charging stations in commercial and community areas, and subsidies for electric vehicle purchases
- Electric school bus and neighborhood electric vehicle programs, transit subsidies, tech-enabled mobility features, bike-share and car-share programs, and more

Measures to be implemented within L.A. County will include:

- Energy efficient upgrades for schools and public buildings in disadvantaged communities
- Two thousand electric vehicle charging stations in strategic locations countywide

Climate Resolve, one of California’s leading nonprofit groups dedicated to combating climate change, will aid in the goal of the Net Zero Newhall initiative by managing energy efficiency upgrade projects in low-income communities in Los Angeles County. In addition to aiding local communities, these projects will help Newhall Ranch reach its goal of net zero greenhouse gas emissions.

“Bringing greenhouse gas emissions to zero is a landmark moment for development in the United States. Climate Resolve appreciates this opportunity to create climate solutions that benefit the low-income communities most at risk from climate impacts,” said Jonathan Parfrey, Executive Director of Climate Resolve. “The best way to address the climate crisis right now is with local projects that reduce our dependence on fossil fuels and prepare Los Angeles to be more climate-resilient in the future.”

Plug In America, a leading national advocate for plug-in vehicles, applauded today’s announcement as an important step in accelerating the state’s shift to vehicles powered by clean, domestic electricity. “FivePoint has committed to make this the most EV-friendly development in California history – and a model for future projects,” said Joel Levin, executive director of Plug In America, which is working with FivePoint to implement Net Zero Newhall’s electric vehicle infrastructure and incentives. “As the national consumer voice for electric vehicles, we are excited to work with them to make that a reality.”

In addition to the above measures within the Newhall Ranch site and L.A. County, FivePoint will fund activities that will directly reduce the emissions of greenhouse gases elsewhere in California and throughout the world, such as:

- Conserving ecologically valuable forestland
- Reducing methane emissions from a California dairy farm
- Funding a clean cook stove program in sub-Saharan Africa to reduce greenhouse gas emissions, improve the health of families, and fight deforestation

-more-

To ensure that these activities are undertaken in a rigorous and transparent manner, FivePoint is working with the Climate Action Reserve, which is widely regarded as North America's largest and most trusted environmental registry, based in Los Angeles. The Climate Action Reserve will oversee a program where independent third parties will confirm the implementation of the emission reduction activities.

"As the fifth largest economy in the world, California has already demonstrated that growing economically while addressing climate change is not only possible, it is a sound 'win-win' investment for our future," said Craig Ebert, President of the Climate Action Reserve. "The innovative Net Zero Newhall initiative commits the Newhall Ranch development to be net carbon neutral. We commend FivePoint for pioneering this new greenhouse gas mitigation program and for recognizing that accurate, rigorous and transparent accounting of emissions reductions, which is at the core of the Climate Action Reserve's work, is fundamental to any new development's success and impact."

Located next to Valencia in the Santa Clarita Valley, west of the 5 Freeway, the Newhall Ranch proposal includes the protection of 10,000 acres of dedicated open space – including a High Country area larger than L.A.'s Griffith Park and New York's Central Park combined – and a \$13 million endowment to protect and maintain the open space, its wildlife and habitats in perpetuity. Additionally, state-of-the-art water conservation measures will be implemented on the property, including a water reclamation plant that will recycle millions of gallons of wastewater each day.

At the same time, Newhall Ranch at buildout will create an estimated 60,000 permanent jobs, hundreds of millions of dollars in new tax revenue, and meaningful relief for Southern California's acute housing shortage. Newhall Ranch will be built in stages, and at completion will include up to 11.5 million square feet of commercial and industrial space as well as up to 21,500 homes within nine sustainable villages in a variety of sizes and price points, including rental and affordable housing. Other community amenities will include seven new public schools, four fire stations, 11 neighborhood and community parks and a public library.

At buildout, the community is estimated to generate \$388 million in annual property tax revenue and \$410 million in annual income taxes. As a multi-billion-dollar economic investment, Newhall Ranch has already won praise from business leaders throughout the Santa Clarita Valley.

"Santa Clarita is the third-largest city in Los Angeles County and the centerpiece of a region with 90,000 jobs. Newhall Ranch will accelerate our efforts to continue strengthening the Santa Clarita Valley with good jobs and a high quality of life," said Holly Schroeder, President and CEO of the Santa Clarita Valley Economic Development Corporation. "Particularly exciting is the prospect of becoming a hub for the innovative clean-tech industries that will be drawn to this development, especially in the renewable energy and electric vehicle fields."

Hasan Ikhata, executive director for the Southern California Association of Governments, also welcomed today's announcement. "Net Zero Newhall is setting a new standard for sustainability in master-planned communities," said Ikhata, whose organization represents 191 cities in six California counties. "These innovative transportation programs and energy-neutral homes will not just reduce greenhouse gas emissions, they will also bring greater investment in similar programs to Southern California."

The proposal will require re-approval by authorities at the State and County levels only on two topics regarding the project's greenhouse gas emissions and avoiding harm to the endangered unarmored threespine stickleback fish.

More information about Net Zero Newhall and its expansive sustainability features is available at [www.NetZeroNewhall.com](http://www.NetZeroNewhall.com).



**About FivePoint**

Spanning the state from Southern California to the San Francisco Bay Area, FivePoint is the largest owner and developer of mixed-use, master planned communities in coastal California based on the total number of residential home sites permitted under existing entitled zoning. FivePoint, based in Aliso Viejo, has major real estate holdings and developments in three of the most dynamic and supply-constrained markets along the California coast: Orange County, Los Angeles County and San Francisco County. For additional information, visit [www.fivepoint.com](http://www.fivepoint.com).

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